REMARKS

By this Amendment, Applicants propose to amend claims 1, 19, and 37 to incorporate the subject matter of claims 2, 20, and 38, respectively. Applicants also propose canceling claims 2, 20, and 38 without prejudice or disclaimer of the subject matter thereof, and amending claims 3-5, 21-23, and 39-41 solely to change the dependencies of these claims. Upon entry of these proposed amendments, claims 1, 3-19, 21-37, and 39-54 will be pending in this application.

In the Final Office Action mailed April 26, 2004, the Examiner rejected claims 1-13, 19-31, and 37-49 under 35 U.S.C. § 103(a) as unpatentable over Cabrera et al. (U.S. Patent No. 6,490,666) in view of Romine (U.S. Patent Application Publication No. 2001/0003829) and rejected claims 14-18, 32-36, and 50-54 under 35 U.S.C. § 103(a) as unpatentable over Cabrera in view of Romine and in further view of Dunham (U.S. Patent No. 6,269,431).

Applicants respectfully traverse the rejection of claims 1-13, 19-31, and 37-49 under 35 U.S.C. § 103(a) as unpatentable over Cabrera in view of Romine.

Applicants' claim 1, as proposed to be amended, recites a "method for managing files in a file system, wherein an application program accesses files in the file system, comprising," among other things, "storing in the primary storage a partial version of at least one released file, wherein the partial version includes a portion of the data in at least one released file" (emphasis added). Cabrera and Romine, taken alone or in combination, do not disclose or suggest at least these features.

The Examiner alleges in the Office Action, page 14, that Fig. 5A of Cabrera discloses a "buffer header, [that] is a partial version of at least one released file as claimed." Applicants respectfully disagree with the Examiner's characterization of Fig.

-17-

5A of <u>Cabrera</u>. The data structure shown in Fig. 5A represents a buffer header, which stores a file-based identifier, preferably comprising a volume ID identifier, a file ID, and a data block ID. See col. 9, lines 27-31. Additionally, <u>Cabrera</u> discloses that data buffers store a logical data unit, (e.g., a data block) of requested data transferred from a secondary storage device. See col. 9, lines 5-9. In other words, when data is requested and is stored in the secondary storage device, it is transferred to an available data buffer. See col. 7, lines 52-57. And as indicated, Fig. 5A represents a buffer header and its contents. See col. 9, lines 27-38. However, the above cited data storage operations do not constitute "storing in the <u>primary storage</u> a partial version of at least one released file, wherein the partial version includes a portion of the data in at least one released file" (emphasis added). By contrast, as the Examiner admits, the primary storage device disclosed by <u>Cabrera</u> is primary storage 122. See Office Action, page 8.

In addition, the Examiner also appears to allege that the "stub file" disclosed in <u>Cabrera</u> is represented in Fig. 5A in connection with the Examiner's allegations that Fig. 5A represents data stored in primary storage 122. Applicants respectfully disagree. As discussed above, Fig. 5A represents a buffer header. The "stub file" referred to by the Examiner, however, is discussed in <u>Cabrera</u> at col. 1, beginning at line 52. In particular, <u>Cabrera</u> discloses that the "stub file" contains information that allows the hierarchical data storage system to determine where the data in the file has been migrated. See col. 1, lines 55-58. Consequently, the stub file is a pointer to the location in secondary storage to where the data file has been migrated. <u>Cabrera</u> does not disclose, however, that there is any relation between its stub file, which is a pointer used to locate data

stored in secondary storage, and its buffer headers of Fig. 5A, which are used during transmission of data that has been retrieved from secondary storage. In other words, Fig. 5A and the stub file are not one in the same as the Examiner appears to allege.

Furthermore, Romine does not make up for the deficiencies of Cabrera. Romine discloses retrieving data from disk files and playing a multimedia data stream as soon as enough information is available in the files. See, for example, Abstract. However, Cabrera and Romine, taken alone or in combination, do not disclose or suggest "storing in the primary storage a partial version of at least one released file, wherein the partial version includes a portion of the data in at least one released file," as recited in claim 1, as proposed to be amended (emphasis added). For at least the above reasons, the Examiner is respectfully requested to withdraw the rejection of claim 1.

Applicants' propose amending claims 19 and 37 to include recitations of a scope similar to that of allowable claim 1. These claims are allowable at least for the reasons set forth above. Dependent claims 3-13, 21-31, and 39-49 depend from allowable independent claims 1, 19, and 37, respectively, and are allowable at least due to their dependencies from allowable claims. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 3-13, 19, 21-31, 37, and 39-49.

Applicants respectfully traverse the rejection of claims 14-18, 32-36, and 50-54 under 35 U.S.C. § 103(a) as unpatentable over Cabrera in view of Romine and in further view of Dunham. As discussed above, Cabrera and Romine do not disclose or suggest all of the features of Applicants' claims 1, 19, and 37, as proposed to be amended. Dunham, which discloses providing backup of physical storage units with a minimum of host computer system involvement, does not make up for the deficiencies

of <u>Cabrera</u> and <u>Romine</u> discussed above. Accordingly, for at least the reasons

discussed with respect to claim 1, claims 14-18, 32-36, and 50-54 are allowable at least

their dependencies from allowable claims 1, 19, and 37.

CONCLUSION

Applicants respectfully request that the Examiner enter this Amendment under

37 C.F.R. § 1.116, placing claims 1, 3-19, 21-37, and 39-54 in condition for allowance.

Applicants submit that the proposed amendments do not raise new issues or

necessitate the undertaking of any additional search of the art by the Examiner, since all

of the elements and their relationships claimed were earlier claimed in the claims as

examined. Therefore, this Amendment should allow for immediate action by the

Examiner.

Furthermore, Applicants respectfully point out that the final action by the

Examiner presented some new arguments as to the application of the art against

Applicant's invention. It is respectfully submitted that the entering of the Amendment

would allow the Applicants to reply to the final rejections and place the application in

condition for allowance.

Finally, Applicants submit that the entry of the amendment would place the

application in better form for appeal, should the Examiner dispute the patentability of the
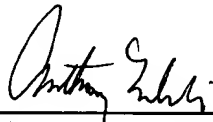
pending claims.

In view of the foregoing remarks, Applicants respectfully request the entry of this

Amendment, the Examiner's reconsideration and reexamination of the application, and

the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 23, 2004   By:_____

Anthony J. Lombardi
Reg. No. 53,232